

Message Text

CONFIDENTIAL

PAGE 01 STATE 091955

17

ORIGIN L-02

INFO OCT-01 IO-01 ISO-00 ARA-01 /005 R

DRAFTED BY: L/HR: CRUNYON

APPROVED BY: L/HR: CRUNYON

ARA/BC: AISAACS

----- 064698

R 071505Z MAY 74

FM SECSTATE WASHDC

INFO RUFHGV/USMISSION GENEVA 2023

USMISSION USUN NEW YORK

C O N F I D E N T I A L STATE 091955

FOLLOWING REPEAT STATE 091955 ACTION SANTIAGO 03 MAY 74

QTE

C O N F I D E N T I A L STATE 091955

E.O. 11652: GDS

TAGS: CIK PINT, PFOR

SUBJECT; FURTHER LEGAL POINTS RE DETAINEES, TRIALS, ASYLEES

REF: SANTIAGO 2255

1. DEPT WELCOMES VARIOUS RECENT STATEMENTS AND ACTIONS OF GOC WHICH STRONGLY SUGGEST THAT AMBASSADOR'S TIMELY, TACTFUL AND PERSUASIVE COMMENTS IN DIALOGUES WITH GOC OFFICIALS ABOUT TRIALS AND HUMAN RIGHTS HAVE ENCOURAGED AND SUPPORTED SOME MOVEMENT AWAY FROM DEROGATIONS FROM RULE OF LAW. FOLLOWING LEGAL POINTS (RELEVANT TO LEIGH STATEMENTS REFTEL) MAY BE USED BY AMBASSADOR IN FUTURE CONVERSATIONS IF HE DETERMINES THAT IT WOULD BE USEFUL TO DO SO AND COULD BE HELPFUL TO EMBASSY OFFICERS WHO ARE ATTENDING TRIALS OR ARE OTHERWISE INVOLVED IN DEALING WITH THESE ISSUES.

2. RELEASE OR TRIAL OF THE 6,000 REMAINING DETAINEES IS PROPER PROCEDURE UNDER INTERNATIONAL LAW AS EVIDENCED BY
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 091955

UNIVERSAL DECLARATION HUMAN RIGHTS AND THUS GOC COMMITMENT

TO DO SO PROMPTLY IS WELCOME. LIKEWISE, DEPARTURE OF ASYLEES FROM MISSIONS WITHIN 30 DAYS SHOULD GREATLY HELP OVERSEAS UNDERSTANDING, ESPECIALLY IN LIGHT INTERNATIONAL LAW PRINCIPLES AND LONG ESTABLISHED CUSTOMS CONCERNING DIPLOMATIC ASYLUM EXERCISED AMONG AMERICAN REPUBLICS.

3. SECRET OR NON-PUBLIC TRIALS - WHETHER OF REMAINING DETAINEES, OF DAWSON PRISONERS OR OF OTHERS - WILL NOT BE UNDERSTOOD OVERSEAS, AND MAY NEGATE TO A CERTAIN EXTENT SUBSTANTIAL GAIN IN UNDERSTANDING BEING ACHIEVED BY VISIBLE JUDICIAL PROCESSES OF FACH TRIALS. FOR EXAMPLE, REPORTS THAT DEATH SENTENCES IMPOSED UPON 5 CIVILIANS REPORTEDLY TRIED IN SECRET BY MILITARY COURT AT SAN FERNANDO (WHICH EXCLUDED EVEN THE ICRC) SERIOUSLY UNDERMINES FAVORABLE IMPACT OF OPEN FACH TRIALS.

4. ALTHOUGH PUBLIC TRIALS OF CIVILIANS BY MILITARY ARE CONSISTENT WITH CHILEAN LEGAL TRADITION, THE CONCEPT IS DIFFICULT FOR US PUBLIC TO ACCEPT SINCE UNDER US CONSTITUTIONAL LAW SUCH MILITARY TRIALS ARE APPROPRIATE ONLY IN ACTIVE WARTIME AND CIRCUMSTANCES CREATING ACTUAL NECESSITY (E.G., CLOSURE OF CIVIL COURTS, ETC.) (SEE CORBIN, CONSTITUTION OF THE US (1964) AT 448-52.)

5. ADVERSE EFFECTS OF MILITARY TRIALS COULD BE LESSENERD IF GOC WERE TO ACT SO AS TO ASSURE FULL APPELLATE REVIEW OF MILITARY COURT CONVICTIONS BY CIVILIAN APPELLATE COURTS. REVIEW BY HIGHER TRIBUNAL IS RIGHT GUARANTEED UNDER ARTICLE 14(5) OF UN COVENANT ON CIVIL AND POLITICAL RIGHTS TO WHICH CHILE IS PARTY. THUS, GREATER INVOLVEMENT OF CIVILIAN JUDICIARY IN TRIALS PROCESS WOULD BE VERY HELPFUL STEP. RUSH UNQTE

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CIK PINT, PFOR
Control Number: n/a
Copy: SINGLE
Draft Date: 07 MAY 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GarlanWA
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE091955
Document Source: CORE
Document Unique ID: 00
Drafter: L/HR: CRUNYON
Enclosure: n/a
Executive Order: RR
Errors: N/A
Film Number: n/a
From: SECSTATE WASHDC
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740566/aaaaches.tel
Line Count: 93
Locator: TEXT ON-LINE
Office: ORIGIN L
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 74 SANTIAGO 2255
Review Action: RELEASED, APPROVED
Review Authority: GarlanWA
Review Comment: n/a
Review Content Flags:
Review Date: 19 JUN 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <19 JUN 2002 by cunninfx>; APPROVED <05 FEB 2003 by GarlanWA>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: ; FURTHER LEGAL POINTS RE DETAINEES, TRIALS, ASYLEES
TAGS: n/a
To: GENEVA USUN NEW YORK
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005